

**Alleged Unauthorised Development**

**Birling**

**05/00523/UNAUTU**

**569484 160492**

Downs

Location:

Oast Park Golf Club Malling Road Snodland Kent

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**1. Purpose of Report:**

- 1.1 To report the alleged unauthorised use of part of the car park as a commercial car wash and the placement of a steel container for the purposes of storage of equipment used in connection with the car wash.

**2. The Site:**

- 2.1 The site lies on the western side of the A228 and forms open countryside that continues to the village of Birling.

**3. History:**

- 3.1 There is a long and complex planning history for this site with the most relevant being TM/95/00309/FL – Extension to existing clubhouse and car park and construction and laying out of floodlit 20 bay golf driving range. Approved 4<sup>th</sup> February 1997.

**4. Alleged Unauthorised Development:**

- 4.1 The alleged unauthorised change of use of part of the car park to use as a commercial car wash and for the placement of a steel container for the purposes of storage of equipment used in connection with the car wash.

**5. Determining Issues:**

- 5.1 It became apparent that the owners of the site had installed a steel container and that a commercial car wash was in operation. A letter was sent to the owners informing them of the need for planning permission for this change of use of the land. A partially completed planning application has been submitted but to date, and despite numerous reminders, this remains invalid and cannot be formally processed.
- 5.2 The site falls within the Metropolitan Green Belt (KSP policy MGB3 and TMBLP policy P2/16) and a Special Landscape Area (P3/6). Under policy P2/16 of the TMBLP, long term protection will be given to the green belt. Under the terms of PPG2, the material change of use of land in the Green Belt is inappropriate development unless it maintains the openness of the Green Belt and does not conflict with the purposes of including land within it. Notwithstanding that the permitted use of the site is as a car park, the installation of the container on a permanent basis would materially harm the openness of the site. The operation of the car wash use also involves the introduction of a commercial use, unrelated to the open recreation uses associated with the golf course, into this rural area. This

conflicts with one of the purposes of including land within the Green Belt, namely to safeguard the countryside from encroachment. The unauthorised use is therefore inappropriate development and I am not aware of any very special circumstances that might justify this development. Moreover, in terms of its visual impact the steel container is not particularly attractive and it detracts from the visual character of the area.

5.3 The development is not required for agriculture forestry or any other use which is essential in a rural setting and therefore does not meet any of the criteria set down in KSP policy RS5. Therefore for this reason the development is inappropriate within this location.

5.4 I am of the opinion that, had the application been validated, it would not have proved possible to grant planning permission for this use for the reasons set out above. Therefore it is appropriate to proceed with formal enforcement action to seek the cessation of the unauthorised use, including the removal of the container.

## **6. Recommendation:**

6.1 An Enforcement Notice **be issued** as set out below and copies **be served** on all interested parties.

The Notice to take effect not less than 28 days from the date of service, subject to:

- The concurrence of the Chief Solicitor, he being authorised to amend the wording of the Enforcement Notice as may be necessary.
- In the event of an appeal against the Notice the Secretary of State and the appellant to be advised that the Local Planning Authority is not prepared to grant planning permission for the development the subject of the Enforcement Notice.

## **Breach Of Planning Control Alleged**

Without planning permission the unauthorised change of use of part of the car park to use as a commercial car wash and for the placement of a steel container for the purposes of storage of equipment used in connection with the car wash.

## **Reasons For Issuing The Notice**

It would appear to this Authority that the above breach of planning control has occurred within the last ten years. The site lies within the Metropolitan Green Belt where there is a strong presumption against permitting new development as defined in PPG2 Green Belts and policy MGB3 of the Kent Structure Plan 1996. The change of use of the land constitutes inappropriate development within the Green Belt because it does not maintain the openness of the Green Belt and conflicts with the purposes of including land within the Green Belt. It conflicts with policy RS5 of the Kent Structure Plan, relating to development within the rural areas, because it does not fall within any of the limited categories of development identified in that policy

as potentially being suitable in the open countryside. For similar reasons it is contrary to policy P2/16 of the Tonbridge and Malling borough Local Plan. It is harmful to the visual amenity and character of the countryside in this Special Landscape Area and as such is contrary to policy P3/6 of the Tonbridge and Malling Borough Local Plan 1998. The purpose in serving the enforcement notice is only to remedy an injury to amenity.

### **Requirement**

To permanently cease the use of the site as a car wash and for the stationing of the steel container related to that use.

### **Period For Compliance**

Three calendar months from the date the Notice becomes effective.

## **6.2 Further Proceedings**

In the event of the Enforcement Notice not being complied with and subject to satisfactory evidence, the Chief Solicitor **be authorised** to commence any proceedings which may be necessary under Section 179 of the Town and Country Planning Act 1990 (as amended) to secure compliance with the Enforcement Notice.

Contact: Richard Edmonds